

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. ETHAN SCHNITKER, Defendant.	3:23-CR-30061-RAL
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**REPORT AND RECOMMENDATION
FOR DISPOSITION OF SUPPLEMENT
TO MOTION TO SUPPRESS**

By way of a supplement to his suppression motion, Ethan Schnitker seeks to suppress, on voluntariness grounds, the buccal swab taken from him on October 19, 2021.¹ He also seeks to suppress the February 4, 2022 statements he made to Special Agent Glenn Moule as the “fruit” of a Fourth Amendment transgression² under *Wong Sun v. United States*.³ Because the supplement relates to a dispositive motion (a suppression motion), the Court is only authorized to determine the same on a report and

¹ Docket No. 44 at 1-5.

² *Id.* at 5.

³ 371 U.S. 471 (1963).

recommendation basis.⁴ Based on the findings, authorities, and legal discussion made on the record at the November 17, 2023 hearing, the Court

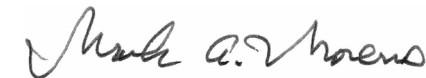
RECOMMENDS that the supplement to the motion to suppress be denied in all respects.

NOTICE

The parties have 14 calendar days after service of this report and recommendation to object to the same.⁵ Unless an extension of time for cause is later obtained,⁶ failure to file timely objections will result in the waiver of the right to appeal questions of fact.⁷ Objections must "identify[] those issues on which further review is desired[.]"⁸

DATED this 17th day of November 2023.

BY THE COURT:



MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

⁴ See 28 U.S.C. § 636(b)(1).

⁵ See *id.*; Fed. R. Crim. P. 59(b).

⁶ See *Thompson v. Nix*, 897 F.2d 356, 357 (8th Cir. 1990); *Nash v. Black*, 781 F.2d 665, 667 & n.3 (8th Cir. 1986) (citing *Thomas v. Arn*, 474 U.S. 140, 155 (1985)).

⁷ See *Thompson*, 897 F.2d at 357; *Nash*, 781 at 667.

⁸ *Arn*, 474 U.S. at 155.